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May 17, 2012

VIA ECF

The Honorable David N. Hurd
United States District Court
Northern District of New York
United States Courthouse
10 Broad Street
Utica, NY 13501

Re: LFG National Capital, LLC v. Gary, Williams, Finney, Lewis, Watson, and Sperando P.L. et al, Case No. 1 :12-cv-00446-DNH-DRH

Dear Judge Hurd:

We represent Defendant and Counterclaimant Gary, Williams, Finney, Lewis, Watson & Sperando, P.L., and Defendants Willie Gary and Lorenzo Williams (hereafter, collectively “Defendants”), in the above-referenced action.

We are writing to respectfully request an adjournment of the hearing scheduled before Your Honor on May 23, 2012 at 11:00 a.m. (hereafter, the “Motion Hearing”). On May 15, 2012, the Motion Hearing—which was originally scheduled for May 25, 2012—was reset for May 23, 2012.

Unfortunately, Michael Sussman, who is co-counsel on this matter and was scheduled to appear and argue on Defendants’ behalf at the Motion Hearing, is unavailable to appear for the Motion Hearing on May 23, 2012. Mr. Sussman is unavailable because he has a trial in *Vero v. Pepsi Cola*, 10 CV 4112 (CS) before Judge Seibel, which commences on May 21, 2012 and proceeds through at least May 24, 2012.

Defendants have specifically requested that Mr. Sussman—who is located in and regularly practices in New York—conduct the Motion Hearing on Defendants’ behalf. According, we respectfully request that the Motion Hearing be adjourned to a date when Mr. Sussman is available to attend the hearing.

Mr. Sussman is available to appear before Your Honor for the Motion Hearing on June 5, 14, 19, 22 or 29, 2012 and we respectfully request that the Motion Hearing be adjourned to one of those days. We would also be happy to participate in a teleconference with Your Honor to

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select an appropriate day for the Motion Hearing if the Court is not available on any of the proposed dates.¹

Respectfully submitted,


Nada I. Shamonki

NIS:de

cc: Via Email
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¹ Plaintiff and Counterdefendants (hereafter, collectively “Plaintiff”) have refused to consent to an adjournment of the Motion Hearing. On May 17, 2012, Scott Balber, lead counsel for Plaintiff, informed us that they would not consent to an adjournment and suggested that we seek relief from the Court, because (1) Harvey Saferstein is Defendants’ lead counsel, (2) Mr. Sussman did not participate in the scheduling conference before Magistrate Judge Homer, (3) and, in Mr. Balber’s estimation, the motions have been pending for too long.